

---

Group of companies

Basic  
documentation  
requirement

Additional  
requirements for  
multinationals

Group file and local  
file

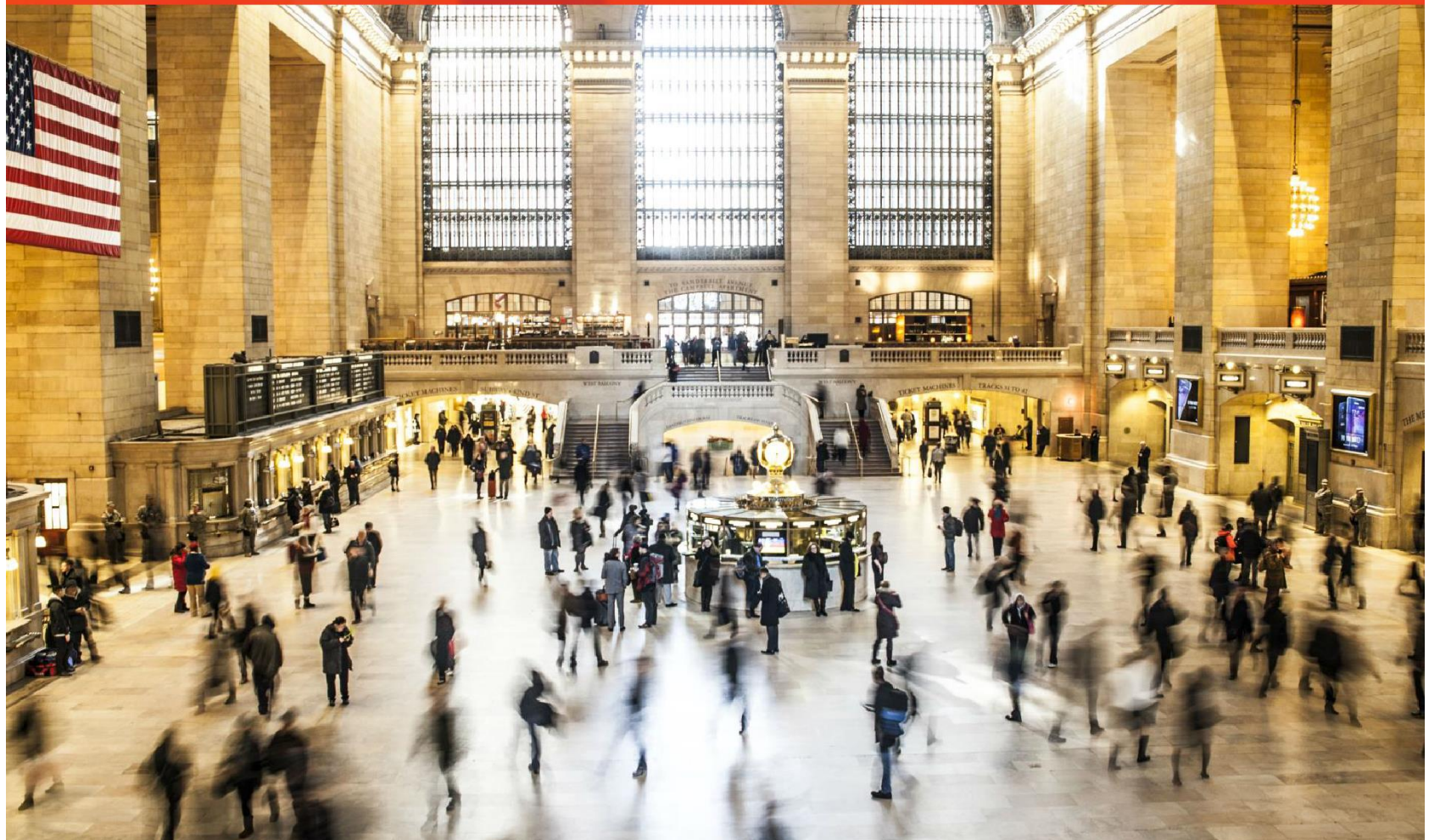
Country report

Evaluate

Any questions?

---

# Transfer Pricing



# Group of companies

Do you supply goods and/or services within your group of companies? Then you are required to ensure that transactions are at arm's length, and you will be applying Transfer Pricing. This is a subject that is attracting increasing attention both nationally and internationally.

## Group of companies

### Basic documentation requirement

### Additional requirements for multinationals

### Group file and local file

### Country report

### Evaluate

---

## **Increasing tax efficiency by abusing the system**

There is currently an extensive discussion in both the media and in politics about international concerns in particular increasing tax efficiency by controlling the prices they charge within the group. Think of shifting profits to countries with low(er) tax rates. Measures from the OECD and EU also apply in our national tax legislation. Transfer Pricing rules now apply to every tax payer, and to domestic and foreign transactions, not just multinationals.

It is important that you regularly review your mutual pricing and update your records and documentation accordingly.

## **Transfer Pricing**

Transfer Pricing regulations set out that related companies must apply arm's length prices for intercompany/intra-group provision of goods and services (= Transfer Pricing transactions).

'Related' pertains to direct or indirect shareholder relations, participation in the control, management or supervision of another entity.

In principle, all Dutch companies that are corporate income tax payers are subject to a documentation requirement with respect to domestic and foreign Transfer Pricing transactions. They must substantiate the prices charged in such transfer pricing transactions. They must also record the policies and conditions on the basis of which those prices were determined, and how these relate to the prices charged to third parties, for example, or why those prices differ. If no comparison with transactions with third parties can be made, it is still important to determine an arm's length price as accurately as possible.

Multinational companies with a consolidated revenue in excess of € 50 million are subject to additional documentation requirements. We outline both schemes below.

# Basic documentation requirement

It is a legal requirement that prices charged internally by group companies for the mutual provision of goods and/or services are calculated on an at arms' length basis. In other words, transfer prices between them should correspond to those charged to independent third parties in a similar transaction.

## Group of companies

### Basic documentation requirement

### Additional requirements for multinationals

### Group file and local file

### Country report

### Evaluate

---

## More than just the price

In order to assess whether a price can be classed as 'at arm's length' in an intercompany transaction, both the price should be assessed, and the calculation basis of the price. If the prices between affiliated parties differ from those charged to third parties, it does not immediately mean that the conduct between affiliated parties is not at arm's length. Just comparing prices is not enough. The comparison should also consider, for example, whether related parties have the same functions and face the same risks as third parties.

- > If the sister company buys much larger quantities than buyer X, it is likely that this is also reflected in the price.
- > If the activities of the sister company are limited to production, its prices are logically different from those of supplier Y if the latter is also responsible for central functions such as marketing policy, research and development.

Differences in functions and risks should therefore be reflected in the transfer prices to be applied.

## When can and may prices differ?

Some examples:

- > Prices may - and do - differ if, for example, the supplier bears the transport risk in a transaction with a sister company in the same group, whereas in the case of buyer X the transport risk is accepted by the buyer.

---

## Transfer Pricing

---

### Group of companies

#### Basic documentation requirement

#### Additional requirements for multinationals

#### Group file and local file

#### Country report

#### Evaluate

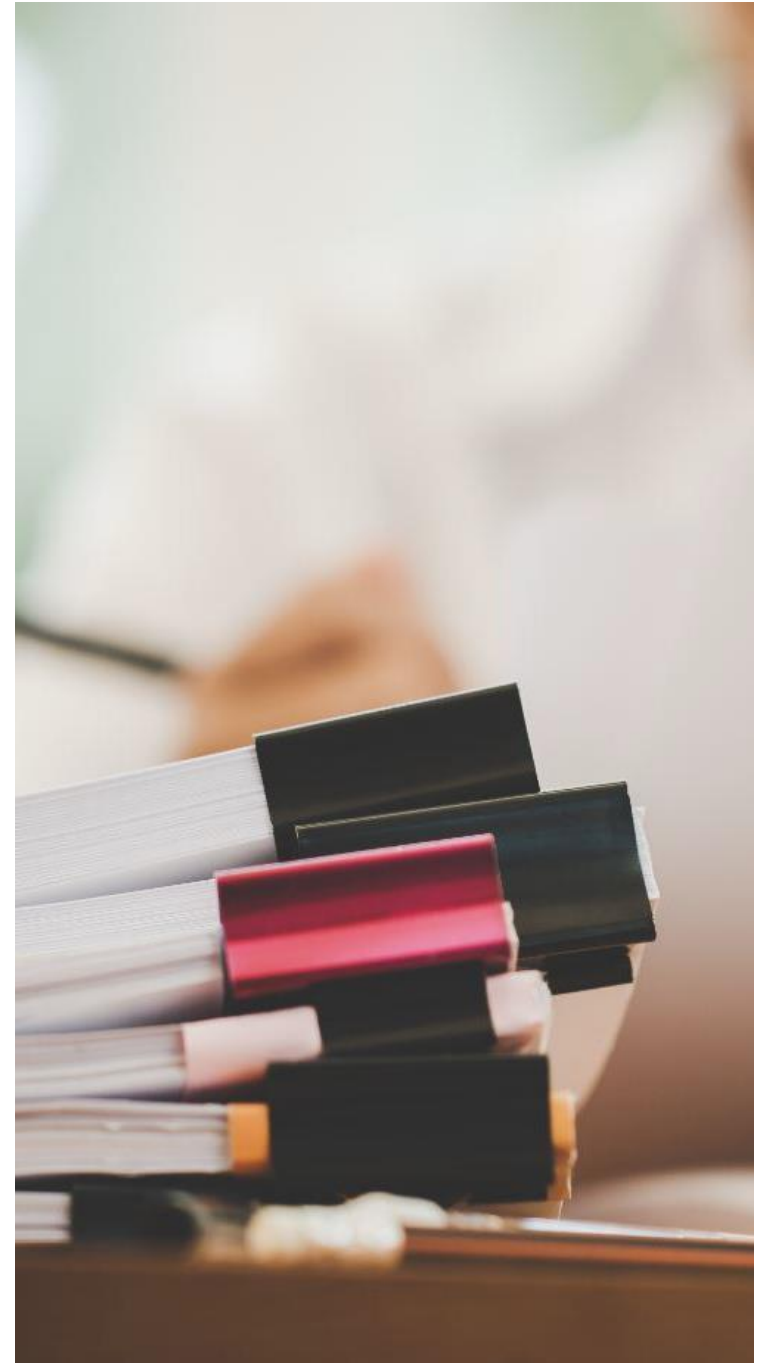
---

### **Record it in detail**

Although in principle, the documentation requirement does not set out a fixed format, there are nevertheless basic criteria that the requirement must meet. We can help you with that.

The documentation requirement also supports the submission of evidence to the Tax Authorities. For example, if in the opinion of the tax authorities, the prices applied are not at arm's length and the profit declared is therefore too low, the Tax Authorities have the burden of proof.

In the absence of the required documentation, the Tax Authorities may make corrections, and the taxpayer must demonstrate that the prices charged are nonetheless at arm's length (this is known as reversal and increase of the burden of proof).



# Additional requirements for multinationals

## Group of companies

### Basic documentation requirement

### Additional requirements for multinationals

### Group file and local file

### Country report

### Evaluate

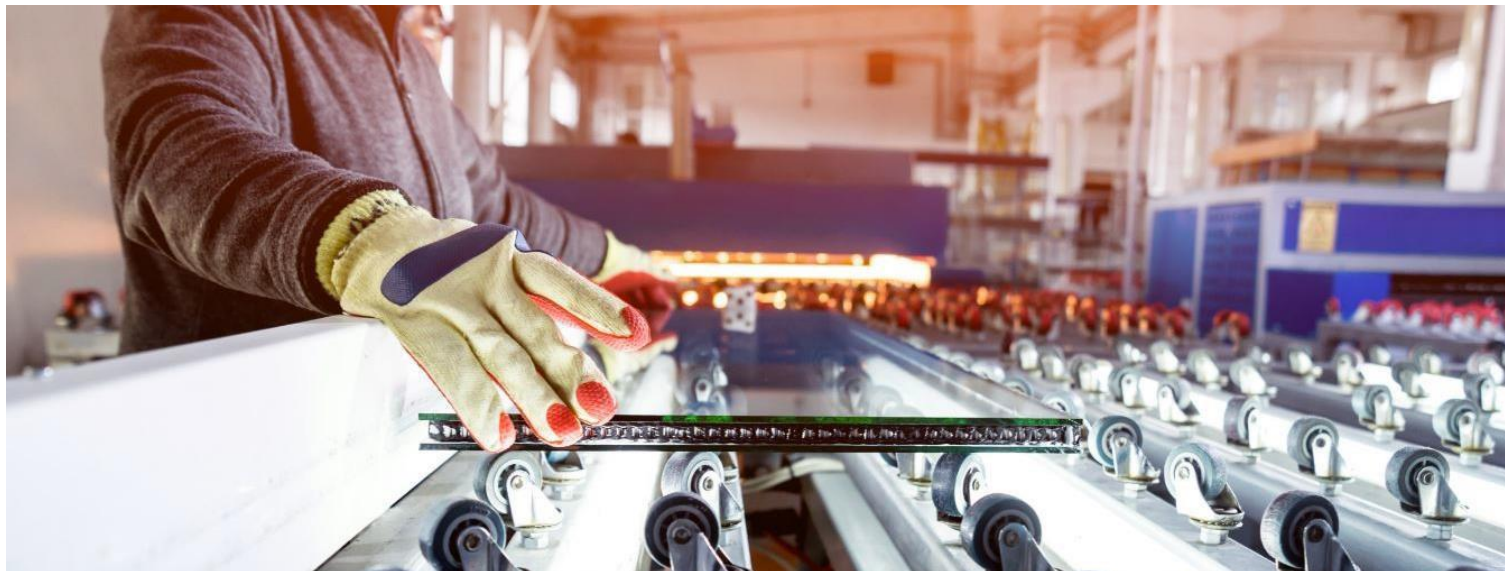
---

Additional requirements apply to Dutch companies and permanent establishments that are part of a multinational group.

Companies and permanent establishments that are tax payers in the Netherlands and belong to a multinational group with a consolidated group revenue of at least € 50 million (in the previous financial year) must have a group file and a local file in their administration.

This applies irrespective of the location of the ultimate parent company.

A country report is required if the consolidated group revenue is at least 750 million euros (in the previous financial year).



Group of companies

Basic documentation requirement

Additional requirements for multinationals

Group file and local file

Country report

Evaluate

---

## Group file and local file

The group file and the local file must provide insight into the (nature of the) company/ companies controlling the multinational group. Additionally, it should describe how the transfer pricing system is applied, and how income and profits are allocated to the countries concerned.

The organisational structure, financial activities, intangible assets, significant intra-group transactions and agreements and the financial and tax position of the group should also be described. These records must be available when the corporate tax return is filed. If not, taxpayers may face reversal of the burden of proof.

## Country report

If the consolidated group revenue is € 750 million or more (in the previous financial year), the ultimate parent company of the group must prepare a country report in the country of incorporation. In certain cases, a Dutch entity of the group may be required to prepare a country report instead of the parent company. The country report must be provided to the Dutch tax inspector within 12 months after the closing date of the relevant financial year. There are increased penalties for non-compliance.

### Mandatory disclosure

The country report mostly contains information about the worldwide group companies, the distribution of profits and the taxes paid in the countries where the group operates. In any event, companies and/or permanent establishments located in the Netherlands are required to inform the Dutch Tax Authorities by the end of the relevant financial year which group company will be submitting the country report.

## Models available

The Tax Authorities have prepared models of the country report, group file and local file in both Dutch and English. These models specify the minimum disclosures to be included in the country report, group file and local file. These models are available from us.

# Evaluate

In short, the Transfer Pricing rules apply to any company subject to corporate taxation that is part of a group. Recently, the legal requirements have been further specified, particularly in the context of international relations. Additionally, the social and political debate plays a role in their correct application.

If you are part of a group, we advise you to evaluate the substantiation and recording of your transfer pricing for intercompany goods and services and, if necessary, to make adjustments. If you are part of an international group, it is important to coordinate any measures and (follow-up) actions with the head office.

## Group of companies

### Basic documentation requirement

### Additional requirements for multinationals

### Group file and local file

### Country report

### Evaluate

---



---

Group of companies

Basic  
documentation requirement

Additional requirements  
for multinationals

Group file and local  
file

Country report

Evaluate

Any questions?

---

## Any questions?

Do you have any questions about this topic? Feel free to contact us. We will be happy to assist you.

Follow us at:

